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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

C.R. No. 2390 of 2007 (O&M)
Date of Decision : May 03, 2007

Jit Singh

... Petitioner

Versus

Gurlal Singh

.. Respondent

CORAM : Hon`ble Mr. Justice Pritam Pal.

Present : Shri Arun Palli, Advocate,
for the petitioner.

PRITAM PAL , J.

This revision petition, by the plaintiff, under Article 227 of the Constitution of India, is directed against order dated 5.3.2007, whereby, an application of the defendant-respondent for leading secondary evidence to prove an agreement dated 22.11.1999, was allowed.

The only contention of learned counsel for the petitioner is that the trial court has allowed the application for leading the secondary evidence by the defendant against the principle laid-down under Section 65 of the Evidence Act. In support of his this contention, he has placed reliance on the Single Bench judgment of Hon`ble Madhya Pradesh High

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Court in **Haji Mohd. Islam and another v. Asgar Ali and another** 2006 (4) RCR (Civil) 190.

I have gone through the aforesaid judgment and find that the facts contained therein are quite at variance from the facts of the case in hand. Here in the instant case, learned trial court has come to the conclusion that an agreement dated 22.11.1999 is in existence and the same is not traceable, as admitted by PW-Satpal, during his examination before the trial Court. Besides that, a copy of the said agreement has already been placed on the file. So, in the given facts and circumstances, I feel that the respondent-defendant should have fair opportunity to lead his secondary evidence to prove the agreement dated 22.11.1999. All this would further help the trial Court in arriving at a right conclusion.

Resultantly, this revision petition is dismissed *in limine.*

[PRITAM PAL]
JUDGE

May 3, 2007.
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